

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 375
HOUSE BILL 25

AN ACT TO REPEAL G.S. 52-6 RELATING TO THE PRIVATE EXAMINATION OF
MARRIED WOMEN AND TO MAKE CONFORMING CHANGES IN RELATED
STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 52-6 is repealed.

Sec. 2. G.S. 52-10 is rewritten to read as follows:

"§ 52-10. Contracts between husband and wife generally; releases. — (a) Contracts between husband and wife not inconsistent with public policy are valid, and any persons of full age about to be married and married persons may, with or without a valuable consideration, release and quitclaim such rights which they might respectively acquire or may have acquired by marriage in the property of each other; and such releases may be pleaded in bar of any action or proceeding for the recovery of the rights and estate so released. No contract or release between husband and wife made during their coverture shall be valid to affect or change any part of the real estate of either spouse, or the accruing income thereof for a longer time than three years next ensuing the making of such contract or release, unless it is in writing and is acknowledged by both parties before a certifying officer.

(b) Such certifying officer shall be a notary public, or a justice, judge, magistrate, clerk, assistant clerk or deputy clerk of the General Court of Justice, or the equivalent or corresponding officers of the state, territory or foreign country where the acknowledgment is made. Such officer must not be a party to the contract.

(c) This section shall not apply to any judgment of the superior court or other State court of competent jurisdiction, which, by reason of its being consented to by a husband and wife, or their attorneys, may be construed to constitute a contract or release between such husband and wife."

Sec. 3. G.S. 52-10.1 is rewritten to read as follows:

"§ 52-10.1. Separation agreements. — Any married couple is hereby authorized to execute a separation agreement not inconsistent with public policy which shall be legal, valid, and binding in all respects; provided, that the separation agreement must be in writing and acknowledged by both parties before a certifying officer as defined in G.S. 52-10(b). Such certifying officer must not be a party to the contract. This section shall not apply to any judgment of the superior court or other State court of competent jurisdiction, which, by reason of its being consented to by a husband and wife, or their attorneys, may be construed to constitute a separation agreement between such husband and wife."

Sec. 4. G.S. 7A-292(10), as it appears in the 1975 Cumulative Supplement to 1969 Replacement Volume 1B of the General Statutes, is amended by deleting the following: ", and to make a private examination of the wife, as provided in G.S. 52-6".

Sec. 5. G.S. 10-5(a)(1), as it appears in the 1975 Cumulative Supplement to 1969 Replacement Volume 1B, is rewritten to read as follows:

"(1) Take and certify the acknowledgment of a contract, release, or separation agreement between a husband or wife as prescribed by the provisions of G.S.

52-10 or G.S. 52-10.1, and take and certify the acknowledgment or proof of the execution or signing of any other instrument or writing;"

Sec. 6. G.S. 29-19(b), as it appears in 1976 Replacement Volume 2A of the General Statutes, is amended in the paragraph designated (2) by deleting the language "G.S. 52-6(c)" and substituting therefor the language "G.S. 52-10(b)".

Sec. 7. G.S. 39-12, as it appears in 1976 Replacement Volume 2A of the General Statutes, is amended on line 5 by deleting the language "G.S. 52-6" and substituting therefor the language "G.S. 52-10 or G.S. 52-10.1".

Sec. 8. G.S. 39-13.2(b), as it appears in 1976 Replacement Volume 2A of the General Statutes, is rewritten to read as follows:

"(b) Any transaction between a husband and wife pursuant to this section shall be subject to the provisions of G.S. 52-10 or G.S. 52-10.1 whenever applicable."

Sec. 9. G.S. 39-13.3(e), as it appears in 1976 Replacement Volume 2A of the General Statutes, is rewritten to read as follows:

"(e) Any conveyance authorized by this section is subject to the provisions of G.S. 52-10 or G.S. 52-10.1, except that acknowledgment by the spouse of the grantor is not necessary."

Sec. 10. G.S. 39-13.4, as it appears in 1976 Replacement Volume 2A of the General Statutes, is amended in the last sentence of the section by deleting the language "G.S. 52-6 with respect to a certificate of private examination of the wife" and substituting therefor the following: "the provisions of G.S. 52-10 or G.S. 52-10.1".

Sec. 11. G.S. 39-13.5, as it appears in 1976 Replacement Volume 2A of the General Statutes, is amended in the paragraph numbered (1) immediately after the words "clearly stated in the granting clause of the deed or deeds to such tenant and his or her spouse, and further provided that" by deleting the remaining language of that numbered paragraph and substituting therefor the following: "the deed or deeds to such tenant in common and his or her spouse is signed by such tenant in common and is acknowledged before a certifying officer in accordance with G.S. 52-10;"

G.S. 39-13.5 is further amended in the paragraph numbered (2) immediately after the language "shall be owned by them as tenants by the entirety" by deleting the remaining language of that numbered paragraph and substituting therefor a period.

Sec. 12. The following amendments are hereby made to Chapter 47 as it appears in 1976 Replacement Volume 2A of the General Statutes:

a. G.S. 47-3 is amended on lines 6 and 7 by deleting the language ", and said commissioner may likewise take the acknowledgment and take such proof as to a married woman".

b. G.S. 47-5 is amended on line 3 by deleting the words "married woman or other".

c. G.S. 47-9 is amended on lines 1 and 2 by deleting the language ", including the privy examination of any married woman,"; G.S. 47-9 is further amended on line 5 by deleting the language ", proof or privy examination," and substituting therefor the words "or proof"; and, G.S. 47-9 is further amended on lines 7 and 8 by deleting the language ", proofs and privy examinations" and substituting therefor the words "or proofs".

d. G.S. 47-12 is amended on line 8 by deleting the language "G.S. 52-12" and substituting therefor the language "G.S. 52-10 or G.S. 52-10.1".

e. G.S. 47-12.1(b) is amended by deleting the language "G.S. 52-12" and substituting therefor the language "G.S. 52-10 or G.S. 52-10.1".

f. G.S. 47-13 is amended on line 6 by deleting the word "women" and substituting therefor the word "persons".

g. G.S. 47-38 is amended on lines 2 and 3 by deleting the language "or where a married woman is a grantor or maker,".

Sec. 13. G.S. 52-2, as it appears in 1976 Replacement Volume 2A of the General Statutes, is amended on line 1 by deleting the language "G.S. 52-6" and substituting therefor the language "G.S. 52-10 or G.S. 52-10.1".

Sec. 14. G.S. 52-9, as it appears in 1976 Replacement Volume 2A of the General Statutes, is amended on line 9 by deleting the following: "May 1, 1958, whichever date is later" and substituting therefor the following: "January 1, 1978, whichever date is earlier".

Sec. 15. G.S. 52-8, as it appears in 1976 Replacement Volume 2A of the General Statutes, is amended on lines 2 and 3 by deleting the language "December 31, 1974" and substituting therefor the language "January 1, 1978".

Sec. 16. The following sections of the General Statutes are repealed: G.S. 39-10 and G.S. 47-39.

Sec. 17. This act shall become effective on January 1, 1978, and no provision of this act shall affect pending litigation.

In the General Assembly read three times and ratified, this the 13th day of May, 1977.